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David E. Franklin
David E. Franklin
07 May 01

Date

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Serial No.: 09/809,780
Filed: 3/16/2001
Group Art Unit: 2161
Examiner:
Applicant: Erica Ress et al.
Title: SYSTEM AND METHOD FOR PROVIDING ON-LINE ANCILLARY CONTENT FOR PRINTED MATERIALS

Cincinnati, Ohio 45202

Date: May 7, 2001

Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

INFORMATION DISCLOSURE STATEMENT

In accordance with the duty of candor and good faith imposed by 37 C.F.R. §1.56 and means of complying therewith according to 37 C.F.R. §§1.97 and 1.98, the references listed on the attached Form PTO-1449 are called to the attention of the United States Patent and Trademark Office in connection with the above-identified patent application. Copies of the cited references are enclosed herewith.

No representation is made that the cited art is the only art or that the cited art represents the best art.



The Examiner is urged to consider all of the cited documents and to make an independent evaluation of the teachings and materiality of each.

If any additional fees are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

WOOD, HERRON & EVANS, L.L.P.

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§1.56 DUTY TO DISCLOSE INFORMATION MATERIAL TO PATENTABILITY

(a) A patent by its very nature is affected with a public interest. The public interest is best served, and the most effective patent examination occurs when, at the time an application is being examined, the Office is aware of and evaluates the teachings of all information material to patentability. Each individual associated with the filing and prosecution of a patent application has a duty of candor and good faith in dealing with the Office, which includes a duty to disclose to the Office all information known to that individual to be material to patentability as defined in this section. The duty to disclose information exists with respect to each pending claim until the claim is canceled or withdrawn from consideration, or the application becomes abandoned. Information material to the patentability of a claim that is canceled or withdrawn from consideration need not be submitted if the information is not material to the patentability of any claim remaining under consideration in the application. There is no duty to submit information which is not material to the information known to be material to patentability of any existing claim. The duty to disclose all information known to be material to patentability is deemed to be satisfied if all information known to be material to patentability of any claim issued in a patent was cited by the Office or submitted to the Office in the manner prescribed by §§1.97(b)-(d) and 1.98. However, no patent will be granted on an application in connection with which fraud on the Office was practiced or attempted or the duty of disclosure was violated through bad faith or intentional misconduct. The Office encourages applicants to carefully examine; (1) prior art cited in search reports of a foreign patent office in a counterpart application, and (2) the closest information over which individuals associated with the filing or prosecution of a patent application believe any pending claim patentably defines, to make sure that any material information contained therein is disclosed to the Office.

(b) Under this section, information is material to patentability when it is not cumulative to information already of record or being made of record in the application, and

(1) it establishes, by itself or in combination with other information, a prima facie case of unpatentability of a claim; or

(2) it refutes, or is inconsistent with, a position the applicant takes in:

(i) opposing an argument of unpatentability relied on by the Office, or

(ii) asserting an argument of patentability. A prima facie case of unpatentability is established when the information compels a conclusion that a claim is unpatentable under the preponderance of evidence, burden-of-proof standard, giving each term in the claim its broadest reasonable

construction consistent with the specification, and before any consideration is given to evidence which may be submitted in an attempt to establish a contrary conclusion of patentability.

(c) Individuals associated with the filing or prosecution of a patent application within the meaning of this section are:

- (1) each inventor named in the application;
- (2) each attorney or agent who prepares or prosecutes the application; and
- (3) every other person who is substantively involved in the preparation or prosecution of the application and who is associated with the inventor, with the assignee or with anyone to whom there is an obligation to assign the application.

(d) Individuals other than the attorney, agent or inventor may comply with this section by disclosing information to the attorney, agent, or inventor.

INFORMATION OF INTEREST TO EXAMINER

- (1) Any knowledge of the subject matter by persons other than the inventors prior to the date of invention.
- (2) Patents granted more than one year prior to the filing date or filed in the Patent and Trademark Office before the date of invention.
- (3) Publications printed more than one year prior to the filing date or filed in the Patent and Trademark Office before the date of invention.
- (4) A public use, sale or offer for sale more than one year prior to the filing date of the application.

If you are aware of any prior knowledge but are not certain as to whether or not it must be called to the attention of the Examiner, please advise me. Please err on the side of telling me more than I need to know.